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S.B. CIVIL WRIT PETITION NO.2950/2007.

Alcobex Metals Workers Union
Vs.
State & Ors.

Date of Order :: 29th October 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Hemant Shrimali with
Mr. Himanshu Shrimali, for the petitioner.
Mr. P.K. Lohra – Caveator.

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BY THE COURT:

This writ petition has been submitted by the petitioner Alcobex Metals Workers Union seeking to question the order dated 28.03.2007 (Annex.1) made by the State Government in its Labour Department under Section 10-K of the Industrial Disputes (Rajasthan Amendment) Act, 1947. The order in question, inter alia, provides:

> "एल्कोबेक्स मेटल्स वर्कर्स यूनियन एवं संस्थान के श्रमिकगण वर्तमान प्रकरण से सम्बन्धित किसी भी बिन्दु को लेकर इस आदेश के प्रभावशीलता की अवधि में कोई हड़ताल, धरना, प्रदर्शन अथवा रैली आदि नहीं करेंगे, न ही गो स्लो, अथवा उत्पादन को विपरीत रूप से प्रभावित करने वाली किसी भी प्रकार की गतिविधि में शामिल होंगे ।"

Learned counsel Mr. Hemant Shrimali appearing for the petitioner attempted to argue on the legality and the validity of the said order dated 28.03.2007 with the submissions that the order has been made without application of mind; without

existence of the circumstances relevant therefor; without even a notice to the workers concerned; and it is clear from the order itself that it has not been made in proper exercise of discretion and all the facts and circumstances have not been taken into consideration.

Considering the matter for motion-admission, learned counsel for the petitioner was posed the specific question if the petitioner Union is at present on with any call for strike to which learned counsel candidly admitted that the petitioner Union is continuing with the strike that was called on 04.04.2007. Learned counsel further attempted to submit that the petitioner Union is not interested to continue with the strike but has been compelled to resort to the strike for the attitude on the part of the Management.

Noteworthy it is that the order impugned was issued on 28.03.2007 and has been made operative for one year from the date of issue. A period of more than 7 months has already elapsed from the date of the said order; and it is an admitted position that in spite of such order prohibiting the petitioner Union and other labourers to resort to any strike, or adopting any method that retards the industrial production, the petitioner Union is continuing with its strike.

Thus, even in the face of the said order dated 28.03.2007, sought to be questioned in this writ petition, the

petitioner Union appears to be least bothered about the rule of law; the order made by the Government has not even been primarily respected; and rather, immediately after passing of the order, the petitioner Union has chosen to resort to the strike and, as admitted by the learned counsel for the petitioner, the same is continuing yet.

This Court is clearly of opinion that for the very conduct of the petitioner Union of absolute defiance of the very order dated 28.03.2007 which is sought to be impugned in this writ petition and which is otherwise in operation till this date, the petitioner Union is not entitled to any relief in extra-ordinary writ jurisdiction of this Court.

Learned counsel wanted to rely upon some decisions, however, as noticed, for the conduct of the petitioner of absolute defiance of the very same order that is sought to be challenged in this writ petition, this Court is clearly of the opinion that the merits of the grounds sought to be urged do not deserve consideration at the instance of the petitioner.

Exercise of writ jurisdiction for the petitioner Union deserves to be declined; and the writ petition is, therefore, rejected.

(DINESH MAHESHWARI), J.

Mohan/